

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

PROCTER & GAMBLE COMPANY)
Plaintiff,)
v.) CIVIL ACTION NO. 08-CV-251
JOHNSON & JOHNSON,)
and)
MCNEIL-PPC, INC.)
Defendants.)

)

**DEFENDANT JOHNSON & JOHNSON'S
UNOPPOSED MOTION TO DISMISS**

Defendant, Johnson & Johnson, hereby makes a limited appearance to submit the following unopposed motion to dismiss under Fed. R. Civ. P. 21 without prejudice.

On May 2, 2008, Procter & Gamble sued Johnson & Johnson and McNeil-PPC, Inc. ("McNeil") for alleged infringement of U.S. Patent Nos. 6,949,240 and 6,551,579 (collectively, "patents-in-suit"). In its Complaint, Procter & Gamble defined "Defendants" to include Johnson & Johnson and McNeil, and alleged that "Defendants have been infringing and continue to infringe" the patents-in-suit "by manufacturing, using, selling and/or offering for sale products, including at least Listerine Whitening® Quick Dissolving Strips."

Counsel for Defendants has informed counsel for Plaintiff and now represents to this Court that Johnson & Johnson has never manufactured, used, sold and/or offered for sale the Listerine Whitening® Quick Dissolving Strips, the accused product in this case. Given this representation, the parties agree to have Johnson & Johnson dismissed from this case without

*Approved
Barbara B. Cease
7/14/08*

prejudice.

Plaintiff does not oppose this motion.

Respectfully submitted,

Dated: July 10, 2008

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